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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/312,352 05/14/99 MACDONALD

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EXAMINER

NEUDER, W

ART UNIT

PAPER NUMBER

3672

*10*

DATE MAILED:

09/21/00

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/312,352**

Applicant(s)  
**Macdonald et al**

Examiner  
**William P. Neuder**

Group Art Unit  
**3672**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-15 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4 and 9

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3672

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 8-11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Maguire et al.

See Fig. 3 which shows how the blocks are aligned one over the other so that the void 18 aligns with the void created by the neck portion of a lower block.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maguire et al in view of Dawson.

Maguire et al discloses a retaining wall block member having all of the claimed features except for pins and pin cavities for locking the blocks together. As shown in Fig. 3, concrete tabs 32 extend upwardly and are received in slots 30 on the lower face of a block in an adjoining row. Dawson discloses that the use of pins and pin cavities to lock retaining blocks together is well known. It would have been considered obvious to one having ordinary skill in the art at the time the invention was made to have used the locking means of Dawson for the locking means of Maguire et al since they are equivalent parts for performing equivalent functions. As to claim 2, Fig. 3 shows the neck portions aligned. As to claim 5, both Maguire et al and Dawson show a second set of tabs or pins for aligning. As to claim 6, the sidewall faces taper inwardly. As to claim 7, the use of notches to form weak links to break concrete blocks is old and well known. It would have been considered obvious to one having ordinary skill in the art at the time the invention was made to have provided areas of weakness in the blocks of Maguire et al so that the block could be broken at a desired point.

5. Claims 12,13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maguire et al.


Incorporation of known elements used in retainer wall structure, does not constitute allowable subject matter. Maguire et al could accommodate rebar a post or a pilaster if one of ordinary skill in the art so desired.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is (703) 308-2168.

W.P.N.

September 19, 2000

  
William Neuder  
Primary Examiner